

IN THE HAMILTON CIRCUIT COURT

CAUSE NO. 29 C 0 1 0 6 1 0 PL 1234

STATE OF INDIANA,

Plaintiff,

V.

DEBRA J. CHAMBERLAIN,
individually and doing business as
HELLVEN CHOPPERS, INC.,

GARY G. CHAMBERLAIN, II,
individually and doing business as
HELLVEN CHOPPERS, INC., and

HELLVEN CHOPPERS, INC.

Defendants.

FILED
OCT 31 2006
James Baiz
CLERK OF THE
HAMILTON CIRCUIT COURT

CONSENT JUDGMENT

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, and the Defendants, Debra J. Chamberlain, Gary G. Chamberlain, II and Hellven Choppers, Inc., hereby agree to entry of a Consent Judgment without trial or adjudication of any issue of fact or law herein.

The parties believe it is in their best interest to resolve the issues raised by the State of Indiana and avoid further litigation. This Consent Judgment does not constitute an admission by the Defendants of any wrongdoing, nor shall it be construed as an abandonment by the Attorney General of his position the Defendants violated Indiana's Deceptive Consumer Sales Act. The parties consent to entry of a final judgment in this

proceeding by the Court and accept this Consent Judgment as final on the issues resolved herein.

JURISDICTION, SCOPE OF JUDGMENT, AND ACKNOWLEDGMENTS

1. This Court has jurisdiction and venue over the subject matter of this action and the parties hereto.

2. The State of Indiana's Complaint for Injunction, Restitution, Costs, and Civil Penalties states a cause of action pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*

3. At all times relevant to this Complaint, the Defendant, Debra J. Chamberlain, was regularly engaged in the sale of items via the Internet from her principal place of business in Hamilton County, located at 13265 Britton Park Road, Fishers, Indiana, 46038.

4. At all times relevant to this Complaint, the Defendant, Gary G. Chamberlain, II, was regularly engaged in the sale of items via the Internet from his principal place of business in Hamilton County, located at 13265 Britton Park Road, Fishers, Indiana, 46038.

5. At all times relevant to this Complaint, the Defendant, Hellven Choppers, Inc., was a for-profit domestic corporation engaged in the sale of items via the Internet from its principal place of business in Hamilton County, located at 13265 Britton Park Road, Fishers, Indiana, 46038.

RELIEF ORDERED

6. The Defendants are permanently enjoined from engaging in the following acts and making, causing to be made, or permitting to be made the following representations:

- a. representing, expressly or by implication, the subject of a consumer transaction has sponsorship, approval, characteristics, accessories, uses, or benefits it does not have, which the Defendants know or reasonably should know it does not have;
- b. representing, expressly or by implication, the consumer transaction involves or does not involve a warranty, a disclaimer of warranties, or other rights, remedies, or obligations, if the representation is false and if the Defendants know or reasonably should know the representation is false;
- c. representing, expressly or by implication, the Defendants are able to deliver or complete the subject of a consumer transaction within a reasonable period of time, when the Defendants know or reasonably should know they cannot; and
- d. representing, expressly or by implication, the consumer will be able to purchase the subject of a consumer transaction as advertised by the Defendants, when the Defendants do not intend to sell it.

7. The Defendants' contracts with Consumers, Clint W. Brinker, Georgia Clark, Johnny Corcoran, Fabio DaSilva, Sandy Reilly, Gilbert Sanabria, Bryant Savina, Dennis P. Walton, Jared Lee Wells, and George Williams, are hereby cancelled pursuant to Ind. Code § 24-5-0.5-4(d).

8. The Defendants shall pay consumer restitution pursuant to Ind. Code § 24-5-0.5-4(c)(2) in the total amount of Twenty-One Thousand Two Hundred Sixteen Dollars and Sixty-Four Cents (\$21,216.64), payable to the Office of the Attorney General, for allocation and distribution to the following aggrieved consumers in the following amounts:

- | | | |
|----|---|------------------|
| a. | Clint W. Brinker of Ft. Belvoir, Virginia | \$ 1,994.00; |
| b. | Georgia Clark of Jessup, Georgia | \$ 3,250.00; |
| c. | Johnny Corcoran of Charlotte, North Carolina | \$ 1,250.00; |
| d. | Fabio DaSilva of Peabody, Massachusetts | \$ 1,899.00; |
| e. | Sandy Reilly of Crothersville, Indiana | \$ 1,901.64; |
| f. | Gilbert Sanabria of Hasbrouch Heights, New Jersey | \$ 2,499.00; |
| g. | Bryant Savina of Clarksburg, West Virginia | \$ 2,299.00; |
| h. | Dennis P. Walton and Darlene C. Losey of
Potsdam, New York | \$ 2,500.00; |
| i. | Jared Lee Wells of Spokane, Washington | \$ 1,725.00; and |
| j. | George Williams of Baltimore, Maryland | \$ 1,899.00. |

9. The Defendants shall pay the Office of the Attorney General, pursuant to Ind. Code § 24-5-0.5-4(c)(3), the amount of Five Hundred Dollars (\$500.00), representing the Plaintiff's costs of investigating and prosecuting this action.

10. The Defendants shall pay the Office of the Attorney General, pursuant to Ind. Code § 24-5-0.5-4(g) and Ind. Code § 24-5-0.5-8, the amount of Twenty-One Thousand Dollars (\$21,000.00), representing civil penalties for the Defendants' knowing and intentional violations of the Deceptive Consumer Sales Act.

11. The Defendants shall not engage in business as a supplier of motorcycles or other goods via the Internet until the monetary provisions of this judgment are fully satisfied. Furthermore, the Defendants shall not resume business as an owner, principal, or investor in any subsequent business or corporation engaged in business as a supplier of motorcycles or other goods via the Internet until the monetary provisions of this judgment are fully satisfied.

12. A total monetary judgment in the amount of Forty-Two Thousand Seven Hundred Sixteen Dollars and Sixty-Four Cents (\$42,716.64) shall therefore be entered in favor of the Plaintiff, State of Indiana, and against the Defendants, Debra J. Chamberlain, Gary G. Chamberlain, II, and Hellven Choppers, Inc.

13. The Defendants shall cooperate with the Office of the Attorney General in the resolution of any future written complaints the Consumer Protection Division receives. This shall include, but is not limited to, the Defendants promptly resolving valid consumer complaints brought to the Defendants' attention by the Office of the Attorney General, either prior to, or after the filing of, this Consent Judgment with the Court.

CONTINUING JURISDICTION

14. For the purpose of enforcing the provisions of this Consent Judgment, any subsequent Court obtaining jurisdiction over the Defendants based upon a complaint alleging a violation of any law that is the subject of this Consent Judgment may take judicial notice of this Judgment. The Defendants waive any objection regarding a Court's jurisdiction to punish for contempt and agrees to appear upon proper notice of a failure to comply with any of the provisions of this Judgment.

IN WITNESS WHEREOF, the parties have executed this Consent Judgment this

24 day of October, 2006.

STATE OF INDIANA
STEVE CARTER
Indiana Attorney General

HELLVEN CHOPPERS, INC.

By: Gary G. Chamberlain, II, President
Gary G. Chamberlain, II, President

by: Terry Tolliver
Terry Tolliver
Deputy Attorney General
Attorney No. 22556-49

Debra J. Chamberlain
Debra J. Chamberlain,
individually and doing business as
Hellven Choppers, Inc.

Gary G. Chamberlain, II
Gary G. Chamberlain, II,
individually and doing business as
Hellven Choppers, Inc.

Approved: Erika K. Kornowa
Erika K. Kornowa
Defendants' Counsel

ALL OF WHICH IS APPROVED, ORDERED, ADJUDGED AND DECREED

this 31 day of Oct, 2006.

Judith S. Proffitt
Judge Hamilton Circuit Court

Distribution:

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